

Remarks

Claims 9 to 14, and 16 remain pending in the above-referenced application and are submitted for the Examiner's reconsideration.

In response to the objection to the Specification, Applicants have amended the Specification to render moot the present objection. Therefore, withdrawal of this objection is requested.

Claims 9, 10, 14, and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 5,764,365 to Finarov ("Finarov I") in view of United States Patent No. 5,333,052 to Finarov ("Finarov II") and United States Patent No. 3,985,447 to Aspnes ("Aspnes"). The Examiner admits that the combination of Finarov I, Finarov II, and Aspnes does not disclose an angle measurement device that senses an angle of a reflected beam relative to a tangential plane that does not intersect a substrate in an area of an incidence point. Instead, the Examiner relies on the existence of trigonometric rules with which one may derive the angle recited in claim 9 from an angle of the reflected beam with respect to a line normal to the plane of the substrate, i.e., the angle which the ellipsometer of Finarov I ascertains. While such known rules that permit one to derive the angle recited in claim 9 from the angle which is ascertained in Finarov I may exist, the combination of Finarov I, Finarov II, and Aspnes does not disclose or suggest an apparatus for determining a thickness of a film that determines this angle via such known rules or otherwise, or the determination of a film's thickness as a function of this angle. Therefore, the combination of Finarov I, Finarov II, and Aspnes does not render unpatentable claim 9 (or any of its dependent claims). Accordingly, withdrawal of this rejection is respectfully requested.

As for the prior art rejections of claims 11 to 13, Applicants submit that none of the additional references relied on by the Examiner in those rejections overcomes the deficiencies noted with respect to the combination of Finarov I, Finarov II, and Aspnes. Accordingly, withdrawal of these rejections is respectfully requested.

Applicants assert that the present invention is new, non-obvious, and useful.

Consideration and allowance of the claims are requested.

Respectfully submitted,

KENYON & KENYON

Dated: 11/10/05

By: Richard L. Mayer
Richard L. Mayer
Reg. No. 22,490

One Broadway
New York, NY 10004
(212) 425-7200